

AMENDED IN SENATE APRIL 20, 2006

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1198

Introduced by Senator Florez

January 24, 2006

An act to amend ~~Section~~ *Sections 19960 and 19961* of the Business and Professions Code, relating to gambling.

LEGISLATIVE COUNSEL'S DIGEST

SB 1198, as amended, Florez. Local gambling.

(1) Existing law ~~permits, the Gambling Control Act, provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the investigation and enforcement of those activities and establishments by the Division of Gambling Control within the Department of Justice. The act prohibits, until January 1, 2010, the governing body and the electors of a county, city, or city and county from authorizing or expanding any legal gaming beyond that permitted on January 1, 1996. The act authorizes a city, county, or city and county to permit controlled gambling issue a local gambling license to a gambling establishment, consistent with state law, if a majority of voters affirmatively approve an ordinance so permitting controlled gambling, as specified. Existing law requires that a measure permitting an expansion of gambling and appearing on the sample ballot, set forth~~ The act requires the measure to permit controlled gambling to appear on the ballot in a specified form, with the sample ballot setting forth the initial implementing ordinances, the hours of operation, the games to be played, the wagering limits, and

the maximum number of gambling establishments, and number of tables to be permitted in each establishment.

This bill would delete the requirement that the sample ballot set forth the wagering limits of a proposed gambling establishment. ~~The bill would also set forth specified findings and declarations with regard to local gambling and the Gambling Control Act.~~

(2) *The act requires, consistent with state law, any amendment to an ordinance that would result in an expansion of gambling, as defined, in a city, county, or city and county that permits controlled gambling, to be approved by a majority of the voters of the city, county, or city and county, unless the change results in an increase of less than 25% of any of the following in the city, county, or city and county: (A) the number of gambling tables, (B) the number of licensed card rooms, (C) the number of gambling tables that may be operated in a gambling establishment, (D) the hours of operation of a gambling establishment, or (E) the maximum amount permitted to be wagered in a game.*

This bill would delete the exception for the maximum amount permitted to be wagered in a game, and would make conforming changes affecting the definition of “expansion of gambling” for these purposes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. The Legislature finds and declares all of the~~
- 2 ~~following:~~
- 3 ~~(a) On October 11, 1997, Chapter 867 of the Statutes of 1997~~
- 4 ~~(hereafter Chapter 867) was filed with the Secretary of State.~~
- 5 ~~This measure, known as the Gambling Control Act, was intended~~
- 6 ~~to provide strict, statewide regulation of gambling establishments~~
- 7 ~~in the State of California. Among the measures included in~~
- 8 ~~Chapter 867 was a repeal of Section 19851 of the Business and~~
- 9 ~~Professions Code. In pertinent part, subdivision (a) of this former~~
- 10 ~~section required that the Division of Gambling Control shall deny~~
- 11 ~~a gambling license to any gambling establishment that is situated~~
- 12 ~~in a city or county that did not have an ordinance governing the~~
- 13 ~~following matters:~~
- 14 ~~(1) The hours of operation of gambling establishments.~~

1 ~~(2) Patron security and safety in and around the gambling~~
2 ~~establishments.~~

3 ~~(3) The location of gambling establishments.~~

4 ~~(4) Wagering limits in gambling establishments.~~

5 ~~(5) The number of gambling tables in each gambling~~
6 ~~establishment and in the jurisdiction.~~

7 ~~(b) This section further provided that if a city or county did~~
8 ~~have an ordinance that governed the matters specified in~~
9 ~~subdivision (a), any amendment to the ordinance to govern those~~
10 ~~matters would not be subject to Section 19950.1 of the Business~~
11 ~~and Professions Code.~~

12 ~~(c) The subject, and some of the provisions, of former Section~~
13 ~~19950.1 of the Business and Professions Code was renumbered~~
14 ~~as Section 19961 of the Business and Professions Code, and in~~
15 ~~pertinent part, that section provides that any amendment of a~~
16 ~~gambling ordinance to expand gambling by more than 24.99~~
17 ~~percent must be submitted to the voters for a vote by the~~
18 ~~electorate. Section 19961 of the Business and Professions Code~~
19 ~~lists the same factors as enumerated in former Section 19851 of~~
20 ~~the Business and Professions Code. It was clearly the intent of~~
21 ~~former Section 19851 of the Business and Professions Code and~~
22 ~~the Gambling Control Act, to have ordinances that were explicit~~
23 ~~and definite in covering each one of the factors listed therein, so~~
24 ~~that in the future it would be possible to determine if there had~~
25 ~~been an expansion of gambling as provided for in Section 19961~~
26 ~~of the Business and Professions Code.~~

27 ~~(d) In order to come into compliance with the Gambling~~
28 ~~Control Act, numerous cities and counties amended their local~~
29 ~~ordinances to adequately address the factors set forth in former~~
30 ~~Section 19851 of the Business and Professions Code. The~~
31 ~~Division of Gambling Control and the Gambling Control~~
32 ~~Commission in years subsequent to 1997, and to the present time,~~
33 ~~have evaluated numerous local ordinances to make certain that~~
34 ~~they are in compliance with former Section 19851 of the~~
35 ~~Business and Professions Code and its successor, Section 19861~~
36 ~~of the Business and Professions Code.~~

37 ~~(e) Subsequent to 1998, Section 19961 was added to the~~
38 ~~Gambling Control Act. This section, in pertinent part~~
39 ~~subdivisions (b) and (c), provides, “(b) An ordinance in effect on~~
40 ~~January 1, 1996, that authorizes legal gambling within the city,~~

1 county, or city and county, may not be amended to expand
2 gaming in that jurisdiction beyond that permitted on January 1,
3 1996. (c) This section shall remain operative only until January
4 1, 2010, and as of that date is repealed.”

5 (f) Section 19962 of the Business and Professions Code thus
6 precludes a city or county from conducting an election to amend
7 the local ordinance to expand gambling beyond that permitted in
8 1996. The provisions of former Section 19851 of the Business
9 and Professions Code have been recast in Section 19861 of the
10 Business and Professions Code, and subdivision (b), which
11 permitted an ordinance to be amended to add one of the factors
12 specified in former Section 19851 of the Business and
13 Professions Code, has now been deleted in Section 19861 of the
14 Business and Professions Code.

15 (g) However, the Division of Gambling Control has conducted
16 a recent review of all local ordinances relating to the issue of
17 wagering limit, and has found that there are 30 or more gambling
18 establishments in this state that are currently operating under the
19 authority of an ordinance that is not compliant with the current
20 Section 19861 of the Business and Professions Code. These
21 ordinances are deficient because either they do not provide for a
22 wagering limit, or the city council or board of supervisors has
23 delegated to the card club or the card club owner, the ability to
24 establish wagering limits and to change those wagering limits.
25 This certainly violates the spirit and intent of the Gambling
26 Control Act and the provisions of former Section 19851 of the
27 Business and Professions Code as originally set forth in the
28 Gambling Control Act. Thus, in order to clarify the law,
29 amendments to Sections 19861, 19961, and 19962 are necessary.

30 SEC. 2.

31 SECTION 1. Section 19960 of the Business and Professions
32 Code is amended to read:

33 19960. This chapter shall not prohibit the enactment,
34 amendment, or enforcement of any ordinance by any city,
35 county, or city and county relating to licensed gambling
36 establishments that is not inconsistent with this chapter. No city,
37 county, or city and county shall issue a gambling license with
38 respect to any gambling establishment unless one of the
39 following is true:

1 (a) The gambling establishment is located in a city, county, or
2 city and county wherein, after January 1, 1984, an ordinance was
3 adopted by the electors of the city, county, or city and county, in
4 an election conducted pursuant to former Section 19819 of the
5 Business and Professions Code, as that section read immediately
6 before its repeal by the act that enacted this chapter.

7 (b) The gambling establishment is located in a city, county, or
8 city and county wherein, prior to January 1, 1984, there was in
9 effect an ordinance that expressly authorized the operation of one
10 or more cardrooms.

11 (c) After the effective date of this chapter, a majority of the
12 electors voting thereon affirmatively approve a measure
13 permitting controlled gambling within that city, county, or city
14 and county.

15 (1) The measure to permit controlled gambling shall appear on
16 the ballot in substantially the following form:

17 “Shall licensed gambling establishments in which any controlled
18 games permitted by law, such as draw poker, low-ball poker,
19 panguine (pan), seven-card stud, or other lawful card games or
20 tile games, are played, be allowed in ____? Yes ____ No ____.”

21 (2) In addition, the initial implementing ordinances shall be
22 drafted and appear in full on the sample ballot and shall set forth
23 at least all of the following:

24 (A) The hours of operation.

25 (B) The games to be played.

26 (C)

27 The maximum number of gambling establishments permitted
28 by the ordinance.

29 (D) The maximum number of tables permitted in each
30 gambling establishment.

31 (d) The authorization of subdivision (c) is subject to Sections
32 19962 and 19963 until those sections are repealed.

33 *SEC. 2. Section 19961 of the Business and Professions Code*
34 *is amended to read:*

35 19961. (a) (1) Except as provided in paragraph (2), on or
36 after the effective date of this chapter, any amendment to any
37 ordinance that would result in an expansion of gambling in the
38 city, county, or city and county, shall not be valid unless the
39 amendment is submitted for approval to the voters of the city,

1 county, or city and county, and is approved by a majority of the
2 electors voting thereon.

3 (2) Notwithstanding paragraph (1) and Section 19962, an
4 ordinance may be amended without the approval of the electors
5 after the effective date of this chapter to expand gambling by a
6 change that results in an increase of less than 25 percent with
7 respect to any of the matters set forth in paragraphs (1), (2), (3),
8 ~~and (5), and (6)~~ of subdivision (b). Thereafter, any additional
9 expansion shall be approved by a majority of the electors voting
10 thereon.

11 (b) For the purposes of this section, “expansion of gambling”
12 means, when compared to that authorized on January 1, 1996, or
13 under an ordinance adopted pursuant to subdivision (a) of
14 Section 19960, whichever is the lesser number, a change that
15 results in any of the following:

16 (1) An increase of 25 percent or more in the number of
17 gambling tables in the city, county, or city and county.

18 (2) An increase of 25 percent or more in the number of
19 licensed card rooms in the city, county, or city and county.

20 (3) An increase of 25 percent or more in the number of
21 gambling tables that may be operated in a gambling
22 establishment in the city, county, or city and county.

23 (4) The authorization of any additional form of gambling,
24 other than card games, that may be legally played in this state, to
25 be played at a gambling establishment in the city, county, or city
26 and county.

27 (5) An increase of 25 percent or more in the hours of operation
28 of a gambling establishment in the city, county, or city and
29 county.

30 ~~(6) An increase of 25 percent or more in the maximum amount~~
31 ~~permitted to be wagered in a game.~~

32 (c) The measure to expand gambling shall appear on the ballot
33 in substantially the following form: “Shall gambling be expanded
34 in ____ beyond that operated or authorized on January 1, 1996,
35 by ____ (describe expansion) Yes ____ No ____.”

36 (d) The authorization of subdivision (c) is subject to Sections
37 19962 and 19963 until those sections are repealed.

38 (e) Increasing the number of games offered in a gambling
39 establishment does not constitute an expansion of gambling
40 pursuant to this section.

1 (f) No city, county, or city and county shall amend its
2 ordinance in a cumulative manner to increase gambling by more
3 than 25 percent for the factors listed in subdivision (b), when
4 compared to that authorized on January 1, 1996, without
5 conducting an election pursuant to ~~Section 19961~~ *this section*.

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